

COMMISSION OF THE EUROPEAN COMMUNITIES

CCX(77) 66 final

Brussels, 14 March 1977

Proposal for a

COUNCIL REGULATION (EEC)

on direct cooperation between the bodies designated
by Member States to verify compliance with Community
and national provisions in the wine sector

(submitted to the Council by the Commission)

CCX(77) 66 final

EXPLANATORY MEMORANDUM

The quantities of wine and grape must which are not conform or which are suspected not to be conform to Community rules create important difficulties. The bodies in the Member States responsible for verifying compliance with Community provisions in the wine sector are not organized in such a way as to enable frauds and deceptions in this sector to be combatted with the desirable efficacy, and the rapid increase in trade between Member States following the common organization of the market in wine has made their task even more difficult.

The Council is aware of the need for special efforts to reinforce the suppression of frauds in the wine sector. It has decided to stress direct cooperation between the specialized bodies in the various Member States. Article 39a of Regulation (EEC) No 816/70 was therefore modified along these lines by Regulation (EEC) No 1160/70. On the basis of that Article, this proposal contains rules governing direct cooperation and providing for intensification and acceleration of the exchange of information between the specialized bodies in the various Member States. The subject of such exchanges is defined and implementing rules can be adopted as necessary.

The adoption of this proposal for a regulation has no financial implications for the Community budget.

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THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 816/70 of 28 April 1970 laying down additional provisions for the common organization of the market in wine (1), as last amended by Regulation (EEC) No 2842/76 (2), and in particular Article 39a(2) thereof,

Having regard to the proposal from the Commission,

Whereas under Article 39a(2) of Regulation (EEC) No 816/70 all necessary measures should be taken to ensure uniform application of Community provisions in the wine sector, particularly as regards controls; whereas this aim can only be achieved by means of direct cooperation between the bodies instructed by the Member States to verify compliance with the provisions in the wine sector, provided for in Article 39a(1);

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(1) OJ No L 99, 5.5.1970, p. 1

(2) OJ No L 327, 26.11.1976, p. 2

Whereas rules should be adopted for contacts between those bodies, stipulating the subjects which may form part of such direct exchange ; whereas a simple procedure should be introduced to allow regular checks on the authenticity of entries on accompanying documents and in turnover records and the sending of samples for analysis or organoleptic examination ; whereas there should be provision for requesting the assistance of a qualified expert from another Member State, especially if other measures have not brought about a solution in case of dispute ; whereas investigations should be permitted when the price of a product gives rise to doubts as to whether its conditions of production, its designation or its presentation comply with Community rules;

Whereas experience has shown that it is useful for the legal authorities in a Member State to be able to ask the competent bodies in another Member State for analyses and interpretations concerning the products in question ; whereas it is therefore desirable for Member States to designate from among the laboratories referred to in the second indent of the second subparagraph of Article 39a(1) of Regulation (EEC) No 816/70 those which are authorized to provide the said analyses and interpretations ;

Whereas, in order to ensure the efficacy of direct cooperation between the bodies instructed by the Member States to verify compliance with Community provisions in the wine sector, the work of the Management Committee for Wines should include a regular exchange of information between representatives of those bodies ; whereas this exchange of information should both deal with suspected or recorded breaches of the said provisions and help to ensure the uniform application of those provisions throughout the Community;

Whereas cooperation between the Commission and the bodies instructed by the Member States to verify compliance with Community provisions in the wine sector may help to reveal irregularities concerning production conditions, oenological practices, the designation or the presentation of a product in this sector ; whereas provision should therefore be made for an administrative enquiry in which Commission agents may participate,

HAS ADOPTED THIS REGULATION :

Article 1

1. As part of their mutual relations in accordance with Article 39a(1) of Regulation (EEC) No 816/70, the bodies instructed by the Member States to verify compliance with Community provisions in the wine sector
 - (a) shall exchange information concerning consignments of products listed in Article 1(2) of Regulation (EEC) No 816/70
 - which they consider or suspect do not conform to Community provisions ;
 - the designation or presentation is false or suspected of being false ;
 - which, in the case of quality wines p.s.r., show a fault suggesting that these wines do not correspond to Community or national provisions governing their production and which may therefore have to be downgraded ;
 - (b) shall in case of doubt request the authorities in another Member States to check the authenticity of the documents required by Community provisions in the wine sector, with the exception of customs documents, and of the entries in the turnover records referred to in Article 29 of Regulation (EEC) No 816/70 ;
 - (c) may send to the authorities in another Member State samples of the products referred to under (a) for analysis or organoleptic examination;
 - (d) may request the authorities in another Member State to appoint a qualified expert to assist them in their control activities concerning a product which is on their territory but which was produced in the other Member State;

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(e) may request the authorities in another Member State to carry out concerted and rapid examination of one or more batches of the products referred to under (a) obtained in the other Member State and marketed on their territory at a price justifying the suspicion that they have been produced, obtained according to oenological practices, designated or presented in a manner which does not conform with Community provisions.

2. Bodies asked for information, checks on the veracity of accompanying documents and registers or analyses or organoleptic examinations shall give these requests priority and shall try as far as possible to reply without delay.

3. If necessary, implementing rules shall be adopted, in particular for:

- the exchange of information, bearing in mind the need to proceed rapidly ;
- sampling ;
- the payment by Member States of the expenses incurred by an expert in a Member State other than the one in whose service he is.

Article 2

By 30 July 1977 at the latest, the Member States shall designate from among the laboratories referred to in the second indent of the second subparagraph of Article 39a(1) of Regulation (EEC) No 816/70 those authorized to provide, at the request of the legal authorities of another Member State, analyses and interpretations of such analyses concerning products listed in Article 1(2) of the said Regulation obtained on their territory.

Article 3

Representatives of the Member States on the control bodies referred to in Article 1 shall meet at regular intervals within the Management Committee for Wines set up by Article 6 of Regulation No 24, in order to discuss :

- the problems raised by the application of this Regulation, and in particular to examine methods of exchanging information and to draw conclusions ;
- any other problem relating to uniform control of Community provisions in the wine sector.

Article 4

1. If the Commission considers that irregularities concerning production conditions, oenological practices, the designation or the presentation of a product listed in Article 1(2) of Regulation (EEC) No 816/70 have occurred in one or more Member States, it shall inform the State or States concerned which shall conduct an administrative enquiry in which Commission agents may participate.
2. The Member State shall forward the report and the conclusions reached at the end of the enquiry to the Commission.
3. Paragraph 1 does not affect the application of Article 6 of Council Regulation (EEC) No 283/72 of 7 February 1972 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the common agricultural policy and the organization of an information system in this field (3).

Article 5

This Regulation shall enter into force on the third day following its publication in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
the President

(3) OJ No L 36, 10.2.1972, p. 1

